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FM AMCONSUL LAGOS
TO RUEHC/SECSTATE WASHDC 8932
INFO RUEHZK/ECOWAS COLLECTIVE
RUEHUJA/AMEMBASSY ABUJA 8745
RUEHBJ/AMEMBASSY BEIJING 0096
RUEHWR/AMEMBASSY WARSAW 0365
RUEHCD/AMCONSUL CIUDAD JUAREZ 0344
RUEHGZ/AMCONSUL GUANGZHOU 0017
RUEHHK/AMCONSUL HONG KONG 0019
RUEHIT/AMCONSUL ISTANBUL 0343
RUEHSO/AMCONSUL SAO PAULO 0337
RUCPDO/DEPT OF COMMERCE WASHDC
RUEAWJA/DEPT OF JUSTICE WASHDC
RUEATRS/DEPT OF TREASURY WASHDC

UNCLAS SECTION 01 OF 03 LAGOS 000357

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STATE FOR AF/W
STATE FOR INR/AA
TREASURY FOR DPETERS
DEPARTMENT PASS TO USTR
USDOC FOR 3317/ITA/OA/KBURRESS
USDOC FOR 3130/USFC/OIO/ANESA/DHARRIS
WARSAW FOR LISA PIASCIK
CIUDAD JUAREZ FOR DONNA BLAIR
ISTANBUL FOR TASHAWNA SMITH
SAO PAULO FOR ANDREW WITHERSPOON

E.O. 12958: N/A

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SUBJECT: NIGERIA: PRIVATE SECTOR SPEAKS OUT ON IPR,
ENCOURAGED BY NEW LEGISLATION

REF: ABUJA 683

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11. Summary: Since 2004, Nigeria has seen a proliferation of Chinese-operated optical disc (OD) pirating factories. The International Federation of the Phonographic Industry (IFPI) has pressed for more effective enforcement and new legislation to make piracy as difficult as possible for these operators. IFPI officials believe the new legislation, the Copyright Optical Discs Plan Regulation 2006 (CODPR), will give the Nigerian Copyright Commission (NCC) the enforcement power heretofore lacking. End summary.

OD Production Develops in Nigeria,
And Piracy Follows Along

12. From virtual nonexistence five years ago, OD production has grown to 14 known factories with 51 production lines among them. While some factories engage in legitimate business, IFPI and the NCC estimate the level of piracy at around 90 percent of production. Much of this OD piracy comes from an influx of Chinese-operated factories to Nigeria. Iain Grant, IFPI Head of Enforcement, told pol/econoff IFPI has been focusing attention on Nigeria, trying to slow down illicit production. While halting piracy is near impossible, IFPI would like to use existing legislation and enforcement to stymie production, according to Grant. IFPI's primary objective is to concentrate on the OD factories and their exports, as well as DVD imports from East Asia. Pirating for the domestic market is of secondary importance.

13. The Nigerian government's (GON) IPR enforcement has so far been desultory. The NCC was tasked with tackling piracy, but has been troubled with a lack of political will to effectively handle the problem. The poorly-funded and fragmented NCC has been no match for the pirates; the enforcement agency is so riddled with informants that enforcement operations are stymied by leaks of sensitive information, according to the IFPI. However, Willem van Adrichem, Regional coordinator for IFPI, commented that the GON was "seriously embarrassed" in 2004 when law enforcement raided the Akina Industries and Nasinma Universal Studio plants in Lagos. These raids helped highlight the problem of piracy to the GON.

14. IFPI was disappointed the court cases against the plant owners made little headway. Van Adrichem said the process foundered; the actual case evidence was somehow burned and lost. Even now, IFPI suspects the Akina plant is still involved in piracy. Van Adrichem said when he visited the factory, despite it being involved exclusively for domestic production he saw only Chinese employees. The Managing Director had a pile of US dollars on his desk, and van Adrichem wondered aloud how all this foreign cash became available if this plant was only intended for domestic production. Other well-connected factories have escaped scrutiny as well. Magnet Integrated Ventures, another target of IFPI, is part-owned by Vice-President Atiku Abubakar's son, Adamu, and according to IFPI is well-protected by the police.

New Legislation to Battle Piracy Encourages IFPI

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15. The need to find a dedicated enforcement body with sufficient powers led IFPI to enlist the assistance of the Economic and Financial Crimes Commission (EFCC). IFPI officials tied OD piracy to the EFCC's campaign against corruption and 419 scams, and the EFCC's broad mandate allows it to cover piracy matters and intellectual property theft. The EFCC's willingness to assist lends a strong enforcement body to the battle against piracy and this development has been encouraging to IFPI, van Adrichem remarked.

16. In March, IFPI met with the Ministry of Justice about the upcoming OD regulations, which were eventually signed and published as CODPR (reftel). These regulations give the NCC authority to conduct unannounced inspections and more effectively prosecute violators Grant said the new regulations, coupled with adequate enforcement could eventually make things so difficult for the pirates they would have to depart Nigeria. Grant thought a key to catching the perpetrators was to get the imported polycarbonate data from the Deputy Chief Comptroller for Customs. Polycarbonate is a key ingredient for disc production, and IFPI could match the polycarbonate data with reported legal production to determine which of the factories committed the most piracy.

Local Artists Will Benefit from IFPI's Efforts

17. The domestic market has received less attention from IFPI, though the new legislation was largely passed to protect the local entertainment industry. However, attitudes in Nigeria's Nollywood movie and recording industry also need to change. The local Adobe office has complained that Nollywood uses pirated products. IFPI's National Coordinator for Nigeria, Akeem Aponmade, has coordinated the local

IPR-awareness campaign by working with local vendors to change attitudes toward piracy.

18. Working with the Audio and Video CD Sellers Association of Nigeria, Aponmade believed he has made headway in slowing the pirating of local works. When Aponmade presented at the Association's monthly meeting, over two hundred vendors attended. The key, Aponmade felt, is to use peer pressure to change attitudes. After receiving permission from the police, Aponmade visited vendors at the Otigba "Computer Village" in Lagos to encourage reform and educate vendors about respecting local IPR. Aponmade collected fake products from vendors which he gave to the Association's Chairman for burning, and he has asked Nu Metro, a local media company which produces copyrighted works, to lower their prices so vendors could afford to sell legitimate works.

Comment

19. Nigeria's efforts to enforce IPR have so far been ineffective, but IFPI's optimism is not misguided. The new legislation is a landmark in battling IPR piracy and with effective enforcement should make an impact. IFPI has so far been disappointed in the work of the NCC, but has found a willing partner in the EFCC, and the new legislation should encourage the NCC to be more aggressive in its prosecution. One ancillary effect of IFPI's efforts is that stricter enforcement will assist the domestic movie and recording industry. These developments will take time and continued

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monitoring to see if Nigeria will make progress in reducing IPR piracy.
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